

HOUSE BILL No. 1092

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-13.

Synopsis: Military family leave. Establishes an unpaid leave of absence for the spouse or parent of a person called to active duty in the United States armed forces or the National Guard for deployment overseas. Limits total leave to 15 days for a spouse or ten days for a parent. Requires an employee to provide notice before taking the leave. Allows an employer to require a certification from the proper military authority to verify the employee's eligibility for the leave. Requires an employee to be restored to the position that the employee held before the leave or to an equivalent position. Requires an employer to permit an employee who is taking a leave to continue the employee's health care benefits at the employee's expense. Allows the employer and the employee to negotiate to have the employer pay for the benefits. Provides legal and equitable remedies for violations.

Effective: July 1, 2007.

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January 8, 2007, read first time and referred to Committee on Small Business and Economic Development.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1092

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-2-13 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:
4 **Chapter 13. Military Family Leave**
5 **Sec. 1. This chapter applies to an employer that employs at least**
6 **fifty (50) employees for each working day during each of at least**
7 **twenty (20) calendar work weeks.**
8 **Sec. 2. As used in this chapter, "active duty" means full-time**
9 **service in:**
10 **(1) the armed forces of the United States; or**
11 **(2) the National Guard;**
12 **for a period that exceeds thirty (30) days in a calendar year.**
13 **Sec. 3. As used in this chapter, "armed forces of the United**
14 **States" means the active or reserve components of:**
15 **(1) the Army;**
16 **(2) the Navy;**
17 **(3) the Air Force;**



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- (4) the Coast Guard;
- (5) the Marine Corps; or
- (6) the Merchant Marine.

Sec. 4. As used in this chapter, "employee" means a person employed or permitted to work or perform services for remuneration under a contract of hire, written or oral, by an employer.

Sec. 5. As used in this chapter, the term "employer" includes the state and political subdivisions of the state.

Sec. 6. As used in this chapter, "health care benefits" means employer provided health coverage, including coverage for medical care, prescription drugs, vision care, medical savings accounts, or any other health related benefit.

Sec. 7. As used in this chapter, "National Guard" means:

- (1) the Indiana Army National Guard; or
- (2) the Indiana Air National Guard.

Sec. 8. As used in this chapter, "parent" means:

- (1) a biological father or mother;
- (2) an adoptive father or mother; or
- (3) a court appointed guardian or custodian.

Sec. 9. (a) An employee who:

- (1) has been employed by an employer for at least twelve (12) months;
- (2) has worked at least one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the day the leave begins; and
- (3) is the spouse or parent of a person who is called to active duty for deployment overseas;

is entitled to an unpaid leave of absence as provided in this chapter during the period that federal or state deployment orders are in effect.

(b) The leave of absence allowed each year under subsection (a) may not exceed a total of:

- (1) fifteen (15) days for a spouse; or
- (2) ten (10) days for a parent.

(c) The leave of absence provided by this chapter is in addition to regular vacation leave, sick leave, or other leave to which an employee may be entitled.

Sec. 10. (a) An employee who wants to take a leave of absence under this chapter shall provide notice to the employee's employer of the date the leave will begin. If the leave will last at least five (5) consecutive work days, the employee shall give at least thirty (30)

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1 days notice before the date on which the employee intends to begin
 2 the leave. If the leave will last less than five (5) consecutive work
 3 days, the employee shall give as much notice as is practicable.

4 (b) An employer may require a certification from the proper
 5 military authority to verify the employee's eligibility for the leave.

6 Sec. 11. (a) Except as provided in subsection (b), after an
 7 employee takes a leave of absence under this chapter, an employee
 8 must be restored to:

- 9 (1) the position that the employee held before the leave; or
 10 (2) a position equivalent to the position that the employee held
 11 before the leave, with equivalent seniority, pay, benefits, and
 12 other terms and conditions of employment.

13 (b) An employer is not required to restore an employee to a
 14 position described in subsection (a) if the employer proves that the
 15 reason that the employee was not restored to the position is
 16 unrelated to the employee's exercise of the employee's rights under
 17 this chapter.

18 Sec. 12. (a) An employer shall permit an employee who is taking
 19 a leave of absence under this chapter to continue the employee's
 20 health care benefits at the employee's expense.

21 (b) The employer and employee may negotiate for the employer
 22 to continue the employee's health care benefits at the employer's
 23 expense during the leave.

24 Sec. 13. (a) An employer shall not interfere with, restrain, or
 25 deny the exercise of or the attempt to exercise any right provided
 26 under this chapter.

27 (b) An employer shall not discharge, fine, suspend, discipline, or
 28 discriminate in any other manner against an employee who
 29 exercises or attempts to exercise any right provided under this
 30 chapter.

31 Sec. 14. (a) An employee may bring a civil action at law to
 32 enforce this chapter.

33 (b) A circuit court may:

- 34 (1) enjoin any act or practice that violates this chapter; and
 35 (2) order any other equitable relief that is just and proper
 36 under the circumstances to redress the violation of or to
 37 enforce this chapter.

38 SECTION 2. [EFFECTIVE JULY 1, 2007] IC 22-2-13, as added
 39 by this act, does not excuse noncompliance with a provision of a
 40 collective bargaining agreement or other employment benefit
 41 program or plan in effect on July 1, 2007, that is not in substantial
 42 conflict with IC 22-2-13, as added by this act. IC 22-2-13, as added

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1 by this act, does not justify an employer reducing employment
2 benefits provided by the employer that exceed the benefits required
3 by IC 22-2-13, as added by this act.

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